



May 13, 2005

Noteworthy

Allen Calls Reid Statement 'Below the Belt,' 5/13/05

Statement From The Office Of The Senate Majority Leader, 5/13/05

On The Floor

Senator Lott, Floor Statement, 5/12/05

FOR IMMEDIATE RELEASE

ALLEN CALLS REID STATEMENT "BELOW THE BELT"

Calls on Minority Leader to go to the Senate Floor and Explain His Comment

WASHINGTON, DC – U.S. Senator George Allen (R-VA) today called on Senate Minority Leader Harry Reid (D-NV) to take to the floor and explain his assertion that Senators ought to look at a certain judicial nominee's confidential F.B.I. record before considering any action on that nominee.

"Senator Reid is hitting below the belt to make such an assertion and innuendo that there is something criminally wrong with an individual nominee. It is lacking in civility and fairness and what we need is an honorable debate," said Senator Allen.

"It shows the level of desperation to which Senator Reid and his fellow Democrats have devolved. They have argued on so many different procedural tangents, but rarely on the merits of a nominee and their judicial philosophy, capabilities and record of performance," said Senator Allen.

"The Democrats are trying to thwart the Will of the People and the ability of a United States Senator to fulfill his or her Constitutional responsibility to Advise and Consent on a President's judicial nominees who have been reported favorably from the Judiciary Committee. Rather than character assassination, Democratic Senators ought to allow all

Senators to do our job: vote yes or no on these judicial nominees who have been denied the fairness and courtesy of a vote for years. The time is long past to act!"

May 13, 2005

Contact: John Reid

Director of Communications

(202) 224-4746

STATEMENT FROM THE OFFICE OF THE SENATE MAJORITY LEADER, 5/13/05

Upon completion of action on the pending highway bill, the Senate will begin debate on fair up or down votes on judicial nominations. As is the regular order, the Leader will move to act on judge nominations sent to the full Senate by the Judiciary Committee in the past several weeks. Priscilla Owen, to serve as a judge for the 5th Circuit Court of Appeals, and Janice Rogers Brown, to serve as a judge for the DC Circuit Court of Appeals, will be the nominees of focus.

The Majority Leader will continue to discuss an appropriate resolution of the need for fair up or down votes with the Minority Leader. If they can not find a way for the Senate to decide on fair up or down votes on judicial nominations, the Majority Leader will seek a ruling from the Presiding Officer regarding the appropriate length of time for debate on such nominees. After the ruling, he will ensure that every Senator has the opportunity to decide whether to restore the 214-year practice of fair up or down votes on judicial nominees; or, to enshrine a new veto by filibuster that both denies all Senators the opportunity to advise and consent and fundamentally disturbs the separation of powers between the branches.

There will be a full and vigorous Senate floor debate that is too important for parliamentary tactics to speed it up or slow it down until all members who wish have had their say. All members are encouraged to ensure that rhetoric in this debate follows the rules, and best traditions, of the Senate.

It is time for 100 Senators to decide the issue of fair up or down votes for judicial nominees after over two years of unprecedented obstructionism. The Minority has made public threats that much of the Senate's work will be shut down. Such threats are unfortunate.

The Majority Leader has proposed his Fairness Rule: up to 100 hours of debate, and then an up or down vote on circuit and Supreme Court nominations. Further, the Fairness Rule would eliminate the opportunity for blockade of such nominees at the Judiciary Committee. And finally, it will make no changes to the legislative filibuster.

If Senators believe a nominee is qualified, they should have the opportunity to vote for her. If they believe she is unqualified, they should have the opportunity to vote against her.

Members must decide if their legacy to the Senate is to eliminate the filibuster's barrier to the Constitutional responsibility of all Senators to advise and consent with fair, up or down votes.

On The Floor

Senator Lott, 5/12/05

Mr. Lott: Since the opportunity presents itself and I missed the opportunity to engage in the discussion an hour or so ago--not that it was needed--I have had very little to say on the floor of the Senate about the discussion about judges. There are a lot of different viewpoints. I am not going to refer to what others have said and I am not going to suggest I am a great constitutional scholar or that I am so steeped in all of the rules and traditions of the Senate. But I have studied this issue.

I have been in the Congress for now going on 33 years. I have read the Constitution over and over again, particularly on this subject, article II, section 2. I am somewhat familiar with the traditions and rules of the Senate. I am chairman of the Rules Committee. I have been in leadership roles. I must say that while we have had our disagreements and while I have seen us make mistakes and while I have seen injustices heaped on each other, on the people who are affected by issues we deal with, I don't believe I have ever seen anything as unfair and wrong as what I have seen happening to these circuit court nominees over the past 4 years. This has been going on for 4 years.

I was stunned when it started happening with Judge Charles Pickering of Mississippi and Justice Priscilla Owen of Texas. I thought maybe that was something aimed at me or maybe it was aimed at the Fifth Circuit Court of Appeals, or maybe it was a fit of anger about some of the nominees from President Clinton who didn't get out of the Judiciary Committee, but it would be a passing break from tradition. But no, this has continued right on through the 108th. We need to find a resolution that is fair to all concerned.

I wanted to correct a couple misimpressions, perpetuated primarily by the media. The proposal to put the tradition back in place that we don't filibuster Federal judicial nominees is not an end of the filibuster. Some of the media--accidentally, I am sure--suggested this is a debate over whether to have the filibuster. No, it is limited to the Federal judiciary. It won't affect our ability to continue to filibuster legislation or other executive branch nominations, although I have to confess, I think there should be some reasonable limits on that also. I am not a guy who gets so caught up in the institutional rights that I forget considering the rights of people and right and wrong. Does that have a place here in the Senate?

These good men and women and minorities have been maligned, mistreated, have had their lives disrupted, some of them for 4 years. Some of the best possible nominees such as Miguel Estrada said: Well, I have to go on with my life. And he withdrew.

There has been a misimpression given about how this would limit the filibuster. It would only apply to these judicial nominees.

The other thing is, Senator Frist and the Republicans are considering changing the rules. Actually what we are considering doing is putting tradition back in place. The tradition has not been to filibuster Federal nominees. The tradition has not been to filibuster appellate court nominees. Not one time during the 6 years or so I served as leader did we have a filibuster. We are trying to go back to where we were. You can argue over this example or that example or we should retain that right. No, that has not been the right. That has not been the tradition. What has happened is wrong.

I saw somebody last night on one of the talk shows saying everything that happens in Washington is about something else. This lady suggested this whole debate is about the next Supreme Court nomination. Maybe that is true. Maybe there are a couple other things it is about, but in the meantime, innocent and qualified, good people are having their lives disrupted and smeared by this process.

I acknowledge this sort of thing has been going on ever since I have been in the Senate. Every time we have a filibuster or kill somebody or embarrass somebody in our process, whether it is Senator John Tower to be Secretary of Defense or Clarence Thomas to be on the Supreme Court, Judge Bork as a nominee, every time we seem to drop down another level. Sure, a lot of the Clinton nominees were held up in the Judiciary Committee. Maybe this is retaliation for that. What is going to be the next retaliation? How low can we go before we stop this tit for tat?

Now is the time to end it and go back toward greater comity between the parties and the people involved in these discussions. I haven't been sitting on the sideline saying: Let's impose this rule. Let's comply with the Constitution, which I think we should do. I want to make that perfectly clear. I have one goal and only one goal, ultimately, in this area, and that is to stop filibusters of these Federal judges. I don't particularly care how we get there, but that is the right thing to do. I am determined to get there.

As chairman of the Rules Committee, we had hearings on and moved legislation 2 years ago, sponsored by Senator Frist and Senator Zell Miller, to try to come to a fair conclusion about how these judges would be handled. It was a process that said the first vote on cloture would require 60 votes, then 57, then 55, but ultimately get to an up-or-down vote, a majority, but an elongated process to make sure everything that needed to be said could be said. It could be fully scrubbed, and at some point you get to conclusion. A filibuster, the way it is being used, is guaranteeing we never get to conclusion. It goes on and on from one Congress to the next.

We reported out a bill. That apparently wasn't acceptable to the minority, the Democrats. So I started looking for other solutions. I did talk to Senator Ben Nelson and others: Is there some way we can address some of these concerns; is there some way we can guarantee that these nominees are not unfairly held permanently in the Judiciary Committee?

We came up with a process that said after 90 days, if the appropriate blue slips have been returned by the Senators from the State of the nominee affected, then they would come to the floor. They could not be held in committee indefinitely, but if there was a problem that came up and they needed an additional 90 days, agreed to by the chairman and ranking member, then it could be extended. Ultimately, they would have to come out of committee and be considered by the full Senate. That would address one of the concerns that has been pointed out by Senator Reid and Senator Leahy and other Democrats. There is some merit to what they are saying. Let's fix that.

The second problem was freedom of speech, the great tradition in the Senate of endless debate. Give me a break. At any rate, to say the majority leader could not even file cloture for at least 24 hours after a nomination was called up--it could be longer--and then he could file cloture, and after 2 days we would eventually get to an up-or-down vote, but have a week for debate. By the way, Senator Frist subsequently suggested that be moved even further. Every Senator would get an hour if he wanted it, full debate. I hate the thought of that, too, having to listen to 99 other speakers on a judge. Think about the sacrifice the majority leader has to make. When the majority leader has to give 100 hours to anything, how many judges could do you that on? It would be another impediment. But we would have full debate and then a vote. That was the key. Fairness on the committee, full debate on the floor, but ultimately a vote. That was rejected.

A lot of different ideas have been explored. A lot of Senators would like to find a way to stop the way we have been doing business but doing it where everybody could have some degree of comfort. I think time is running out. I think we have to make a decision on this and move on. Some people would say: Oh, my goodness, the Senate will be stopped, slowed down, with different agendas offered. How will we get anything done? The last time I checked, we have done four bills this year. We are not exactly burning up the woods. How do you slow down from almost a dead stop? So there is a little bit of a temerity--I will not use names to describe what the Senate is doing.

I think we need to work together. We have done it many times across the aisle. We have worked with Senator Baucus of Montana on issue after issue. Senator Grassley won't have it any other way, to his credit. We ought to find more ways to do it. We ought to find a way to do it on Social Security. We have done it before. It took courage. We have done it on trade and we are going to do it again. It will take courage, sacrifice, and we are going to have to work to find a solution. We can do that here.

But I guess the thing that really gets me the most is when we put our description of tradition and the great institution ahead of human beings. When we have this debate, I see faces, people; I see Janice Rogers Brown, from California, who has an incredible story to

tell. She is being maligned. Is she a conservative African-American woman? Yes. Is that disqualifying? It should not be. You may not agree with her opinion of Franklin Roosevelt, but isn't she entitled to an opinion? All the while, perhaps, she is ruling very fairly or even ruling against her personal beliefs, if that is what the court precedent calls for.

Mr. President, I don't necessarily mean this as critical of the institution or any one individual, but I think there is an awful lot of pontificating that has gone on too long here. Priscilla Owen, a supreme court justice in Texas, deserves a vote. She deserves to be confirmed. Somebody said she is too pro-business, she has a conservative viewpoint. Is that now disqualifying? I don't think so.

I have voted for judges I didn't agree with, perhaps on labor law. I point out over and over again that I voted to confirm Justice Ruth Bader Ginsburg. Certainly, she would not have been my pick, but she was qualified, experienced, and had proper decorum, and she was ethical. President Clinton won the election and so, based on that, I voted for her.

Surely, we can find a way to work this out. I think it has gone on long enough. I have tried not once, twice, but three times to find a way that we can get the right result, which is an up-or-down vote on these judges, and I have not been able to be successful yet. A lot of people have tried, and I think they deserve recognition. Those of us who have worked to try to find compromise have not been working against the interests of our leadership. We told them what we were trying to do. That is in one of the finer traditions of the Senate. But I cannot find a solution that I think is fair, other than to make it clear that these nominees deserve an up-or-down vote.

The Senate should vote. Some of them won't be confirmed, I predict. One or two of the seven--the magnificent seven--that have been renominated may not be confirmed. I would not be surprised to see that. I have voted for judges and against judges, but all of a sudden we don't want to do that.

Let the Senate do what it is supposed to do. Let's ante up and kick in. Let's vote and solve this issue, get it done, and let's move on and legislate for the best interests of our children and grandchildren.

###